

10/050,454

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REMARKS

Claims 1-20 are pending in the application. Claims 13-20 have been withdrawn from consideration due to a restriction requirement. Favorable reconsideration in light of the enclosed Declaration and the remarks which follow is respectfully requested.

I. Rejection of Claims 1-12 Under 35 U.S.C. §103(a)

Claims 1-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cooney III, et al (US 6,429,524) in view of Moslehi (US 5,270,222). It is respectfully submitted that this rejection be withdrawn for at least the following reasons.

The Examiner contends that in view of Cooney III, et al and Moslehi, when combined, would have made the present invention obvious to one of ordinary skill in the art at the time the invention was made. Applicants respectfully disagree in view of the enclosed Rule 131 Declaration.

The filing date of Cooney III, et al is May 11, 2001. Thus, Cooney III, et al was filed less than one year before the filing date of the present application. The claims of Cooney III, et al do not claim the same invention as the claims of the present application. Submission and entry of a Rule 131 Declaration is therefore in order.

The enclosed Declaration by Mr. Singh provides evidence that the invention claimed in the present application was conceived prior to May 11, 2001, and that diligence was exhibited from at least just prior to May 11, 2001 until constructive reduction to practice, January 16, 2002. In particular, Mr. Singh's Declaration shows the active preparation of the present application.

Since the Declaration shows conception prior to Cooney III, et al's filing date of May 11, 2001, and diligence from before May 11, 2001 to the filing of the present application, the Declaration is effective to remove Cooney III, et al as citable art. Withdrawal of the rejection is therefore respectfully requested.

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REJOINDER

Method claims 13-20 stand withdrawn in view of a Restriction Requirement, while system claims 1-12 and 20 are under consideration.

MPEP 821.04 specifies that, where product and process claims are presented in the same application, and if product claims are elected in a Restriction Requirement, after a product claim is found allowable, withdrawn process claims which depend from or include all the limitations of the allowable product claim will be rejoined. If the rejection is overcome, independent method claim 13 can be amended to include all of the features of claim 1, if necessary, or can be made dependent from claim 1, and per MPEP 821.04, rejoinder of the method claims will be respectfully requested.

In other words, in the event that the claims are deemed allowable, rejoinder of the nonelected method claims (claims 13-20) is respectfully requested in accordance with MPEP 821.04, which permits rejoinder of method claims when product claims are found allowable.

CONCLUSION

The application is believed to be in condition for allowance. A conclusion to that end is respectfully requested.

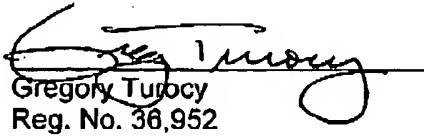
Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

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In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-1063.

Respectfully submitted,
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